

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Express Mail No. EV 321 290 350 US

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



**REQUEST  
FOR  
CONTINUED EXAMINATION (RCE)  
TRANSMITTAL**

Subsection (b) of 35 U.S.C. § 132, effective May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.

See the American Inventors Protection Act of 1999 (AIPA).

<i>SEP 23 2003</i>	<b>Application Number</b>	09/457,228
	<b>Filing Date</b>	December 8, 1999
	<b>First Named Inventor</b>	Gary K. Michelson, M.D.
	<b>Group Art Unit</b>	3738
	<b>Examiner Name</b>	B. Snow
	<b>Attorney Docket Number</b>	101.0084-00000

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

**Note:** 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

**1. Submission required under 37 C.F.R. § 1.114**

- a.  Previously submitted
  - i.  Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on RECEIVED SEP 29 2003  
(Any unentered amendment(s) referred to above will be entered).
  - ii.  Consider the arguments in the Appeal Brief or Reply Brief previously filed on SEP 29 2003
  - iii.  Other \_\_\_\_\_
- b.  Enclosed
  - i.  Amendment/Reply with transmittal (in duplicate)
  - ii.  Affidavit(s)/Declaration(s)
  - iii.  Information Disclosure Statement (IDS) with Form PTO-1449 and 2 documents
  - iv.  Other \_\_\_\_\_

TECHNOLOGY CENTER R3100

**2. Miscellaneous**

- a.  Suspension of action of the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b.  Other \_\_\_\_\_

**3. Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

- a.  The Director is hereby authorized to charge any deficiencies of the following fees, or credit any overpayments, to:
 

Deposit Account No. 50-1066 09/26/2003 MBIZUNES 00000058 09457228

  - i.  RCE fee required under 37 C.F.R. § 1.17(e) 01 EC:1801
  - ii.  Extension of time fee (37 C.F.R. §§ 1.136 and 1.17) 02 EC:1253
  - iii.  Other \_\_\_\_\_ 750.00 OP
- b.  Check in the amount of \$ \_\_\_\_\_ enclosed 930.00 OP
- c.  Payment by credit card (Form PTO-2038 enclosed)

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Amedeo F. Ferraro	Registration No. (Attorney/Agent)	37,129
Signature		Date	9-23-03

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop: RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on:

Name		Date	
Signature			

PATENT  
Attorney Docket No. 101.0084-00000  
Customer No. 22882  
Express Mail No. EV 321 290 350 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

D

In re Application of: )  
Gary K. Michelson )  
Serial No.: 09/457,228 ) Group Art Unit: 3738  
Filed: December 8, 1999 ) Examiner: B. Snow  
For: SPINAL IMPLANT SURFACE ) Confirmation No. 7453  
CONFIGURATION )

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**AMENDMENT**

In reply to the Office Action dated April 21, 2003, the period for reply having been extended for three (3) months by a request for extension and fee payment filed concurrently herewith, please amend the application as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 37 of this paper.